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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

OCT 25 1995

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Amendment of Part 90 of the)
Commission's Rules to Facilitate)
Future Development of SMR Systems)
in the 800 MHz Frequency Band)

PR Docket No. 93-144

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and

Implementation of Section 309(j))
of the Communications Act -)
Competitive Bidding)
800 MHz SMR)

PP Docket No. 93-253

To: The Commission

EX PARTE FILING

RACOM Corporation ("RACOM"), through counsel, hereby respectfully files this Ex Parte communication in response to the invitation of the Federal Communications Commission in the above-captioned proceeding.¹

I. BACKGROUND

At a meeting held at the FCC on September 18, 1995, the Wireless Telecommunications Bureau presented to representatives of the SMR industry the Commission's current vision of a Report and Order and Further Notice of Proposed Rule Making in the 800 MHz licensing proceeding. At that time, the Commission invited further industry Comment by September 29, 1995 on the current version of the proposed rules.

¹Public Notice Report No. WT 95-23, DA 95-1965, released September 12, 1995.

RACOM is a leading supplier of radiophone communications equipment and services. After two decades of operation, RACOM is one of the largest mobile radio dealers in the United States. Additionally, RACOM was the **FIRST** SMR operator to initiate a wide-area SMR network sanctioned by the Commission. In 1982, the Private Radio Bureau, by waiver, authorized RACOM to select frequencies for its licensed or affiliated SMR systems in the states of Minnesota, Iowa, Nebraska, South Dakota, Wisconsin, Illinois, Missouri, and Ohio to allow the creation of an integrated wide-area network system.²

The RACOM regional network, comprised of more than eighty-eight (88) transmitter sites, covers the State of Iowa, the southern portion of Minnesota, and a portion of eastern Nebraska and eastern South Dakota, and provides service in Wisconsin, Illinois, Missouri, Kansas, and Ohio. In its Regional SMR System, RACOM is the licensee or manager of 103 discrete 800 MHz frequencies at more than eighty-eight (88) transmitter sites. The existing network provides a link to a wide range of business and government users, such as AT&T, DuPont, Emery Worldwide, IBM, Proctor & Gamble, the U.S. Air Force, and the U.S.D.A.

RACOM is one of the largest SMR service providers in the Midwest States which includes Minneapolis/St. Paul, MN; Des Moines, IA; Cedar Rapid, IA; Omaha, NE; Lincoln, NE; and Sioux Falls, IA and the rural areas surrounding these larger urban areas. The

²See letter to Gregg D. Miller from James C. McKinney, Chief, Private Radio Bureau, Federal Communications Commission, dated September 13, 1982.

RACOM SMR systems provide wide-area service coverage from: Duluth, MN to the northeast; Clark, SD to the northwest, Grand Island, NE to the west; Topeka, KS to the southwest; St. Louis, MO to the southeast; Rockford, IL to the east. This system effectively provides coverage for the population in State of Iowa, the southern portion of Minnesota, a portion of eastern South Dakota and eastern Nebraska, and service to portions of Kansas, Missouri, Illinois and Wisconsin plus a tri-state coverage (northeastern Indiana, southwestern Ohio and northwestern Kentucky) from several SMR stations in southwestern Ohio. The RACOM SMR systems include coverage over three major transportation corridors: I-35, I-80 and I-29. These transportation arteries provide a vital link between these midwest states and the rest of the United States.

Additionally, RACOM serves hundreds of smaller companies throughout its Midwestern regional area. In addition to its operations in its Midwest Regional SMR Network, RACOM operates SMR systems with supporting sales and service operations in Utah, Colorado and New Mexico.

In order to provide for improved coverage and the capability to meet current and future customer demands for new services such as networked dispatch and telephone interconnect roaming, mobile data, vehicle location, Intelligent Vehicle Highway Systems ("IVHS") applications and facsimile, RACOM is in the process of implementing new SMR technology. RACOM is currently replacing its existing equipment with Ericsson's EDACS equipment. RACOM's implementation of EDACS SMR technology, coupled with the FCC's

approval of RACOM's Waiver Request on October 1, 1993, will permit the re-use of RACOM's currently assigned and managed channels in flexible and dynamic high-power and low-power site configurations.

As a member of the SMRA Council of the Personal Communications Industry Association ("PCIA"), RACOM has been an active participant in various FCC rulemakings and proceedings over the past several years that have related to communications operations and spectrum utilization and efficiency issues. RACOM was instrumental in the development of PCIA's positions in this proceeding.

II. COMMENTS

RACOM is concerned that the Commission's proposed plan virtually ignores the many comments of independent SMR operators over the past year. In fact, the only changes to the Commission's original plan is to use BEAs instead of MTAs (which is an appropriate change) and to permit mandatory relocation (which the Commission initially declined to do).

It is troubling that the Commission apparently continues to view this transition as simple. Recently, representatives of the Wireless Telecommunications Bureau stated that it was simple to retune a mobile unit. RACOM suggests that Commission closely review the previous Comments of the Personal Communications Industry Association ("PCIA") to learn that the technical aspects of this plan are anything but simple. Rather, the intricacies of moving these operations are much more intense than the movement of microwave licensees in the PCS proceeding.

It continues to be the opinion of RACOM that the Commission is without authority to auction this spectrum. Further, it is inconceivable that the Commission wants to relocate long time business operators to auction the spectrum to their **competitors**. However, in recognition of the Commission's representation that these issues are not open to discussion, RACOM continues to try to find the means to reach agreement on the best relocation plan possible, while preserving its rights to continue its opposition to the Commission's core decisions on auctions and mandatory relocation.

In this light, RACOM believes that PCIA's views of incumbent rights, cost recovery and opportunities for independent SMR operators must be included in any plan adopted by the Commission.

In addition, RACOM would like to add its unique perspective to the many voices which have been heard in this proceeding. It is RACOM's view that the Commission has failed to adequately address the technical difficulties of its plan.

RACOM has tried through many discussions to determine how the Commission's plan could be implemented, and at every turn RACOM has determined that it just doesn't work. A look at what would be necessary to "move" RACOM, should it not be an auction winner, perfectly illustrates this point.

RACOM has significant amounts of spectrum in each proposed "block". However, RACOM does not have an entire block of channels in any BEA. RACOM sees little opportunity that it will be an auction winner. Thus, RACOM will be a "relocatee".

RACOM's systems span many BEAs. However, EVERY RACOM mobile unit is programmed for EVERY RACOM transmitter site. Therefore, to transition RACOM's systems, every single mobile unit must be reprogrammed. The number of BEAs in which RACOM operates (and therefore possible number of auction winners), the number of RACOM transmitter sites (eighty-eight) and the number of RACOM customer units (over 5,000) make this task virtually impossible. The Commission must remember that individual customer units cannot be reprogrammed individually. Rather, an entire fleet of units must be reprogrammed at the same time. In addition, the sheer number of RACOM transmitter sites will require an incredible amount of redundant equipment, costing untold thousands of dollars in equipment and tower rent.

In RACOM's view, the Commission has lost sight of the purpose of this proceeding. This proceeding was initially designed to accomplish two goals: (1) relieve the Commission's paperwork burden; and (2) permit licensees to move their transmitter sites without waiting long periods for Commission grant of applications.

In the interim, the Commission received authority to auction spectrum. It is RACOM's belief that the Commission did NOT receive the authority from Congress to auction already assigned spectrum to the licensee's competitors. However, even if the Commission did receive authority to auction this spectrum, the Commission had been instructed to review alternatives to auctions first. The Commission has failed to adequately consider alternatives such as presented by PCIA (which RACOM helped draft) to avoid auctions.

Instead, the Commission is determined to create the greatest amount of money for the United States Treasury, regardless of its impact on existing licensees.

RACOM firmly believes that PCIA presented the Commission with a workable alternative licensing plan. In fact, PCIA's original plan would even work with an auction. In sum, PCIA proposed that the Commission grant geographic licenses on a channel for channel basis, with incumbent licensees being able to file initial applications. However, in meeting with the Wireless Telecommunications Bureau, the Bureau informed PCIA that it would not consider PCIA's plan for three reasons: (1) the Bureau stated that it did not believe it had the authority to limit eligibility; (2) geographic licensing on a channel for channel basis would be too time consuming; and (3) the plan did not create contiguous spectrum.

RACOM asserts that the Bureau's analysis is flawed. The Commission is fully authorized to limit initial eligibility for licenses, and in fact has tentatively decided to do just that in the High Definition Television proceeding.³ By limiting initial eligibility to incumbents, the Commission would most likely have few situations of mutual exclusivity, and therefore the need for few auctions. However, the Bureau's approach only **creates** mutual exclusivity and guarantees auctions. Clearly, auctions are the

³Further Notice of Proposed Rule Making and Notice of Inquiry, MM Docket No. 87-268, FCC 95-315, released August 9, 1995.

Bureau's goal no matter what consequence it holds for the incumbent operators.


With regard to the "need" for contiguous spectrum, who needs it? The Commission has been seduced by the representations of those seeking to create cellular/PCS spectrum for purposes of Wall Street value out of spectrum licensed for decades and providing service to hundreds of thousands of customers. The bottom line is the there has not been demonstrated a bona fide need for contiguous spectrum in this band.

III. CONCLUSION

RACOM urges the Commission to rethink its view of auctions, contiguous spectrum and incumbent relocation and focus on the real needs of the SMR industry and the public. For the foregoing reasons, RACOM Corporation urges the Commission to modify its proposed rules for 800 MHz licensing consistent with the views expressed herein.

Respectfully submitted,

RACOM CORPORATION

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